

**BOARD OF HEALTH AND ENVIRONMENTAL CONTROL**  
**SUMMARY SHEET**

April 14, 2011

(X) ACTION/DECISION

( ) INFORMATION

I. TITLE: Public Hearing Before the Board and Consideration for Final Approval  
Proposed New Regulation 61-118. Electronic Equipment Collection and Recovery  
State Register Document No. 4179  
Legislative Review is Required

II. SUBJECT: Request for Finding of Need and Reasonableness Pursuant  
to S.C. Code Section 1-23-111

III. FACTS:

1. The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, codified at Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended, established requirements for the sale, disposal and recovery of covered electronic devices, specifically for household computers, printers and televisions. The Act requires the Department of Health and Environmental Control staff to promulgate regulations to implement the provisions of the Act. A copy of the Act is submitted as Attachment G.

2. To satisfy the requirements of the Act, staff is proposing new Regulation 61-118, Electronic Equipment Collection and Recovery. The proposed regulation establishes standards for labeling covered devices and for the registration of manufacturers and recoverers of covered devices. The proposed regulation establishes procedures for banning covered devices from solid waste landfills. The proposed regulation specifies fees for manufacturers relative to sales of computers and market share of sales for televisions. The proposed regulation addresses responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, standards for the safe, environmentally responsible recovery, recycling or disposal of discarded devices and reporting requirements. The regulation will also establish fines for violations of the Act and the regulation. The proposed regulation would not take effect prior to July 1, 2011. Legislative review of the proposed regulation is required.

3. The statutory process for development of this regulation was initiated by publication of a Notice of Drafting in the State Register on October 22, 2010. Notice was also published on the Departments Regulatory Information Site in its monthly DHEC Regulation Development Update and on the Bureau of Land & Waste Management Public Notices web page. No comments were received during the drafting comment period. A copy of the Notice of Drafting is submitted as Attachment D.

4. Department staff formed a stakeholder group which included representatives of electronics manufacturers, electronics recyclers, retailers, environmental groups, certification organizations, the Association of Counties, the South Carolina Municipal Association, the waste industry and Department staff. The stakeholder group met twice. Those meetings contributed significantly to the development of the proposed regulation for public comment. Issues were brought forth for consideration and resolved during the meetings. In addition, staff met several times with representatives of the solid waste industry and local governments to address their

concerns about implementation of the Act and the proposed regulation. A wider group of interested parties was also informed regularly about proposed language for the regulation and their comments were solicited as well. The interested parties group included additional representatives of the electronics manufacturing industry, the waste industry, the recycling industry, local governments and DHEC staff, as well as a representative of EPA Region IV.

5. The proposed regulation was internally reviewed by appropriate DHEC staff prior to seeking the Board's initial approval to public notice the proposal in the State Register.

6. On January 6, 2011, the Board granted staff initial approval to public notice the proposed regulation and to conduct an informational forum to receive public comments.

7. A Notice of Proposed Regulation was published in the State Register January 28, 2011, as Document No. 4179. This notice provided notice of opportunity for public comment by submitting written comments during a comment period, by attending an informational forum, and/or by attending a public hearing before the Department's Board. Notice of this was again published on the Department's website and on the Bureau of Land & Waste Management's Public Notices web page. Notifications were distributed by email to approximately 400 recipients from municipal and county solid waste authorities, commercial landfill and transfer station operators, computer and television manufacturers, and electronics recyclers. Notice was also published in the January 2011 edition of E-news, an electronic newsletter published by the DHEC Center for Environmental Sustainability. An excerpt of the Notice of Proposed Regulation is submitted as Attachment E.

8. Department staff conducted an informational forum on February 28, 2011 for any interested person to attend and contribute public comment on the proposed regulation. A transcript was made of this proceeding. Twelve persons attended. Fifteen public comments were received at the forum and during the overall comment period. Changes were made to the proposed regulation as a result of the public comment process. The revised text of the proposed regulation is submitted as Attachment C. A Summary of Public Comments and Department Responses and Revisions is submitted as Attachment F.

9. Those who commented have been mailed a response to their comments along with a reminder of the public hearing scheduled for April 14.

10. The Department is requesting public hearing and a finding of need and reasonableness by the Board. If approved, the proposed regulation would be forwarded to the legislature for review.

#### IV. ANALYSIS:

1. This regulation is needed in order to comply with the Act. The benefit of this regulation is that it will encourage and establish criteria for the collection and recovery of covered electronic devices in such a way that shares responsibility among retailers, manufacturers, consumers, local governments and recoverers of those devices. In addition, the regulation will result in reducing potential threats to the quality of ground water and to worker safety, and will benefit the economy by promoting the electronics recycling industry and promoting resource conservation.

2. This regulation is a reasonable way to comply with the Act because it can be implemented using staff allowed by the Act without impact to the general fund. It provides clear procedures, standards and criteria for manufacturers, sellers and recyclers of covered electronic

devices. It promotes the development of a comprehensive system for end-of-life devices that promotes resource conservation, public health, public safety, and economic prosperity. The recovery program will be based on shared responsibility among manufacturers, consumers, retailers, and government. The proposed fee schedule is reasonable because it includes no fees on consumers at the retail level. The schedule is also reasonable because the manufacturers fees are consistent with fees in other states with electronics recycling programs and provides incentives with reduced fees for certain manufacturers to meet or exceed their recycling obligation goals. In addition, the fees are reduced following the first year of manufacturers' registration after the higher costs to begin the program have been accounted for.

3. The need and reasonableness of this amendment are more fully addressed in the Statement of Need and Reasonableness submitted as Attachment A and a copy of the Act for reference is submitted as Attachment G.

#### V. RECOMMENDATION:

Department staff recommends that based upon the public hearing and attached information, that the Board find for the need and reasonableness of the proposed regulation and approve it for submission to the legislature for review.

Submitted by:

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Daphne G. Neel  
Bureau of Land and Waste Management

Approved by:

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Robert W. King, Jr., P.E.  
Deputy Commissioner  
Environmental Quality Control

#### Attachments:

- A. Statement of Need and Reasonableness
- B. Discussion of Proposed New Regulation
- C. Text of Proposed Revisions
- D. Copy of the Notice of Drafting published October 22, 2010
- E. Excerpt of Notice of Proposed Regulation published January 28, 2011
- F. Summary of Comments, Department Responses and Revisions
- G. Copy of the Act



**ATTACHMENT A**  
**STATEMENT OF NEED AND REASONABLENESS**  
**FOR PROPOSED NEW REGULATION 61-118,**  
**ELECTRONIC EQUIPMENT COLLECTION AND RECOVERY**

March 24, 2011

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115:

DESCRIPTION OF REGULATION: New regulation, Electronic Equipment Collection and Recovery.

Purpose: The purpose of this regulation is to address and implement the applicable provisions of Act 178, known as the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, codified at Section 48-60-05 et seq., S.C. Code of Laws, 1976, as amended.

The regulation will include, but not be limited to: responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act; standards for the collection and use of fees as provided for in the Act; standards for the safe, environmentally responsible recovery, recycling or disposal of discarded devices; reporting requirements; and liability issues for information stored on discarded devices. The regulation will also establish fines for violations of the Act and the regulation. The proposed regulation will not take effect prior to July 1, 2011.

Legal Authority: Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended.

Plan for Implementation: Copies of the regulation will be available electronically on the South Carolina Legislature Online website, and the Department regulation development website (<http://www.scdhec.gov/regulatory.htm>). Printed copies will be available for a fee from the Department Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation. The landfill ban on covered electronic devices will be implemented in the same fashion as other banned items. Staffing will consist of existing personnel and one new staff position as provided for in the regulation.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFIT:**

The need for this regulation is stated in the Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act of 2010. The General Assembly found that:

(1) Televisions, computing, and printing devices are critical to the development of this state's economy and the promotion of the quality of life of the citizens of this State.

(2) Many of these televisions, computing, and printing devices can be refurbished and reused, or recycled.

(3) Developing and implementing a system for recovering televisions, computing, and printing devices promotes resource conservation, public health, public safety, and economic prosperity.

(4) In order to carry out these purposes, the State must establish a comprehensive and convenient recovery program for televisions, computing, and printing devices based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government, and that the program must ensure that end-of-life televisions, computing, and printing devices are disposed of in a manner that promote resource conservation through the development of an effective and efficient system for collection and recycling, and to encourage manufacturers to offer convenient collection and recycling service to consumers at no charge.

This regulation is a reasonable way to comply with the Act because it can be implemented using staff allowed by the Act without impact to the general fund. It provides clear procedures, standards and criteria for manufacturers, sellers and recyclers of covered electronic devices. It promotes the development of a comprehensive system for end-of-life devices that promotes resource conservation, public health, public safety, and economic prosperity. The recovery program will be based on shared responsibility among manufacturers, consumers, retailers, and government. The proposed fee schedule is reasonable because it includes no fees on consumers at the retail level. The manufacturers fees are consistent with fees in other states with electronics recycling programs. The fee structure provides incentives for manufacturers to meet or exceed their recycling obligation goals. The fees are then reduced following the first year of manufacturers' registration after the higher costs to begin the program have been accounted for.

#### DETERMINATION OF COST AND BENEFITS:

**Internal Costs:** Implementation of this regulation will not require additional resources beyond those allowed for in the Act. The Act states that the Department may propose by regulation, an initial registration fee or annual fee, or both, the proceeds of which is to be used solely for the purposes of implementing the provisions of the Act.

**External Costs:** There will be a cost to the manufacturers of covered devices as allowable by, and in accordance with, the methodology specified in Section 48-60-150 of the Act. Fees established by the regulation include initial registration fees, annual fees, and shortfall fees. Fees are set out in the proposed regulation at Sections D.3 and E.5.

**External benefits:** There will be a benefit to the producers, users and recyclers of electronic devices as the responsibility associated with the proper management of the end-of-life devices will be shared among all parties. It will benefit the residents of South Carolina as the proper management of electronics will result in reducing the potential threats to the quality of ground water and to worker safety. It will benefit the economy by promoting the electronics recycling industry and promoting resource conservation.

#### UNCERTAINTIES OF ESTIMATES: None

**EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:** There will be no adverse effect on the environment. The proposed regulation will promote the public health by ensuring electronic devices are recycled in a safe, environmentally sound manner, and not placed in landfills.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:** The Act established a ban on the placement of covered electronics in a landfill, but without clear standards for the proper management of covered devices as established in the proposed regulation, there would be limited options for properly managing used electronics. This could result in the improper and illegal disposal of the

items in a manner that would be unsafe to workers and could result in harmful releases to the environment.

STATEMENT OF RATIONALE: The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, Section 48-60-150 et seq., S.C. Code of Laws, 1976, as amended, directs Department staff to promulgate regulations needed to implement the chapter's provisions, including reporting requirements and standards for operations of recovery facilities, and provides that staff may propose by regulation, fees on the manufacturers of covered computer and television devices.

A workgroup comprised of representatives of local government, electronics manufacturers, electronics recyclers, retailers, environmental groups, certification organizations, the Association of Counties, the South Carolina Municipal Association, the waste industry and Department staff developed the criteria on which the proposed regulation is based.





**ATTACHMENT B**  
**DISCUSSION OF PROPOSED NEW REGULATION**  
**PROPOSED NEW REGULATION R.61-118,**  
**ELECTRONIC EQUIPMENT COLLECTION AND RECOVERY**  
**STATE REGISTER DOCUMENT NO. 4179**  
March 24, 2011

The proposed regulation would not take effect prior to July 1, 2011.

61-118. ELECTRONIC EQUIPMENT COLLECTION AND RECOVERY

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- H. Landfill Owner or Operator Requirements.
- I. Confidentiality.
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Section A describes the purpose and scope of the regulation, lists the types of electronic devices that are subject to regulation and identifies the parties that are required to take action.

Section B defines the terms used throughout the regulation and presents the terms in alphabetical/numerical order.

Section C states the effective date for which consumers must cease placement of covered electronic devices into waste streams destined for landfills.

Section D establishes responsibilities of computer manufacturers.

Section D.1 establishes a ninety-day period from the effective date of the regulation for computer manufacturers to comply with labeling, collection and recovery program requirements, and registration. The standards for labeling and for collection and recovery programs are defined. The information required to register as a computer manufacturer is listed and the standards for a computer devices recovery plan is explained.

Section D.2 explains the annual requirement for fee payment and information updates that are required for registered computer manufacturers.

Section D.3 describes the fee payment required for initial registration as a computer manufacturer and how fee payment is calculated for annual renewal.

Section D.4 sets a maximum penalty of \$1,000 for each violation of a Section D requirement.

Section E establishes responsibilities of Television Manufacturers.

Section E.1 requires each television manufacturer to provide the Department with a designated contact person for obtaining and supplying compliance information to the Department within thirty days of the effective date of the regulation.

Section E.2 establishes a ninety-day period for television manufacturers to meet the labeling, collection and recovery program standards and registration requirements with initial fee payment. The labeling, collection program standards, and registration requirements for television manufacturers are explained. The requirements for a television devices recovery plan are listed.

Section E.3 specifies a ninety-day period for television manufactures to pay annual fees and to provide an annual report to the Department. The data and information updates required for the annual report are listed.

Section E.4 establishes the annual recycling obligation by weight of a television manufacturer as calculated according to market share. The section describes how the obligation is calculated and requires the Department to notify each television manufacturer of their market share recycling obligation.

Section E.5 establishes a fee schedule required for television manufacturers. Fees for initial registration, annual renewal, and shortfall fees for failing to meet recycling obligations are listed. The section establishes a fee exemption for manufacturers who sell 1,000 or less units per year.

Section E.6 establishes a maximum fine of \$1,000 for each violation of a Section E requirement.

Section F. establishes a ninety-day period from the effective date of the regulation for retailers to ensure that the covered devices they sell have labels as required by the regulation. The section also requires retailers to verify or provide recovery programs for the manufacturers of the covered devices they sell. This section does not apply to televisions that sell for less than one hundred dollars. A maximum fine of \$200 is established for each violation of a Section F requirement.

Section G establishes the requirements for recoverers of covered devices in South Carolina.

Section G.1 specifies that covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements

Section G.2 specifies the financial assurance amounts required for recoverers.

Section G.3 exempts local government collection operations from financial assurance requirements.

Section G.4 lists the information to be submitted to the Department for a recoverer to register, including documentation that the recoverer is compliant with the Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program, or other comparable standard.

Section G.5 allows that a conditional registration may be requested by recoverers that are undergoing a process to verify that they meet the standards of section G.4 and that the Department may revoke the conditional registration of a recoverer that fails to gain compliance with the requirements of Section G.4.

Section G.6 explains that the Department will not register a recoverer that fails to provide complete registration information.

Section G.7 establishes the allowable mechanisms that may be used by recoverers to demonstrate that they have met financial assurance requirements.

Section G.8 establishes a ninety-day period after the end of a fiscal year for a recoverer to submit annual reports to the Department. The report shall include the number or weight of devices by category, the sources of the devices, a description of how the devices are disassembled or processed, and the final disposition or destination of the devices or subassemblies.

Section G.9 establishes that the Department shall provide on its website and in an annual report, the list of South Carolina recoverers that have satisfied the requirements of Section G.

Section G.10 exempts entities that only repair or resell covered devices from the requirements of Section G provided they comply with all other federal, state and local requirements.

Section G.11 exempts entities that consolidate covered devices prior to transfer to a recoverer from the requirements of Section G, provided they do not disassemble covered devices for disposal or recycling and provided they comply with all other applicable federal, state, and local requirements.

Section H establishes requirements for the owners and operator of landfills.

Section H.1 requires that the owners or operators of a Class Three landfill reject from the gate of the landfill, loads of waste which they know to contain more than an incidental amount of covered devices.

Sections H.2 and H.3 establish that the owners or operators of a Class Three landfill shall post signs and notify solid waste haulers of the requirements of the regulation within 30 days of the effective date of this regulation. The section also establishes that for the purpose of this regulation, haulers do not include consumers who haul their own waste to the landfill.

Section H.4 establishes a maximum fine of one thousand dollars (\$1000.00) per violation for improper disposal in Class Three landfills and a maximum fine of two hundred dollars (\$200.00) for a landfill that fails to comply with signage or hauler notification requirements in Section H.

Section H.5 establishes that the owner or operator of a Class One or Class Two landfill may not accept for disposal, loads containing covered devices or subassemblies of those devices.

Section H.6 establishes a maximum fine of one thousand dollars (\$1,000.00) per violation for the owner or operator of a Class One or a Class Two landfill who violates the requirements of Section H.5.

Section I identifies information submitted to the Department that may be designated, by the manufacturer of a covered device, as proprietary.

Section J identifies S.C. Code Section 44-1-60 as the procedural model for a person to appeal a Department decision.

Section K protects the remaining portion of the regulation should any part or language be declared invalid.

**ATTACHMENT C**  
**TEXT OF PROPOSED REVISIONS**  
R.61-118, Electronic Equipment Collection and Recovery

March 24, 2011

~~Indicates Matter Stricken~~  
Indicates New Matter

**Text:**

61-118. ELECTRONIC EQUIPMENT COLLECTION AND RECOVERY

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A. Purpose and Scope; Applicability.

1. Purpose and Scope. The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended, established requirements for the sale, management and recovery of covered electronic devices, specifically for household computers, printers and televisions. The purpose of this regulation is to implement the provisions of the Act.

2. Applicability. This regulation applies to the proper management of consumer computers, printers and televisions, by the manufacturers, retailers, collectors, recoverers and consumers of these devices.

B. Definitions.

1. "Act" means the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act of 2010.

2. "Collect" or "collection" means to facilitate the delivery of a covered device to a collection site included in the manufacturer's program, and to transport the covered device for recovery.

3. "Collection event" means a consolidation program offered for a limited duration and designated as part of a manufacturer's recovery program. A collection event may be operated by a private, public or non-profit entity.

4. “Collection point” means a consolidation location operated on an on-going basis and designated as part of a manufacturer’s recovery program. A collection point may be operated by a private, public or non-profit entity and may include drop-off locations or areas served by curbside collection programs.

5. “Collector” means a person or entity that collects or consolidates covered devices.

6. “A computer manufacturer” means a person who:

a. manufactures a covered computer device under its own brand for sale or without affixing a brand;

b. sells in this State a covered computer device produced by another supplier under its own brand or label;

c. imports covered computer devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer; or,

d. manufactures a covered computer device, supplies a covered device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

7. “Conditional registration” means the temporary registrations issued by the Department to recoverers of covered devices that have not yet demonstrated to the satisfaction of the Department that they comply with the ~~Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program~~ responsible recycling practices (R2/RIOS) developed by the institute of Scrap Recycling Industries or other comparable industry or governmental standards.

8. “Consolidate” means to transport or store for less than one year, a covered device, prior to delivery to a recovery or recycling facility. Consolidation programs may include, but are not limited to, local government programs.

9. “Consumer” means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.

10. “Covered computer device” means a desktop or notebook computer, computer monitor, or printing device marketed and intended for use by a consumer, but does not include a covered television device.

11. “Covered devices” means a covered computer device and a covered television device marketed and intended for use by a consumer. “Covered device”, “covered computer device”, and “covered television device” do not include any of the following:

a. a covered device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

b. a covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, emergency services purposes or equipment designed and intended primarily for use by professional users;

c. a covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment; or

d. telephones of any type, including mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand-held gaming device.

12. “Covered television device” means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device, including displays which are designed primarily to display signals from a computer.

13. “Department” means the South Carolina Department of Health and Environmental Control.

14. “Department-designated third-party registrar” means an independent, not-for-profit organization such as the Electronics Recycling Coordination Clearinghouse, that may be designated by the Department to collect registration information and recovery plans from computer and television manufacturers. The designation of a third-party registrar may be made on an annual basis and shall be posted on the Department website.

15. “EQC Region” means, for the purposes of this regulation, one of the eight Environmental Quality Control regions comprised ~~of three or more counties designated by the Department’s Bureau of Environmental Services and mapped on the Department website as follows:~~ Region 1 includes Abbeville, Anderson, Edgefield, Greenwood, Laurens, McCormick, Oconee, and Saluda counties. Region 2 includes Cherokee, Greenville, Pickens, Spartanburg, and Union counties. Region 3 includes Chester, Fairfield, Lancaster, Lexington, Newberry, Richland and York counties. Region 4 includes Chesterfield, Clarendon, Darlington, Dillon, Florence, Kershaw, Lee, Marion, Marlboro and Sumter counties. Region 5 includes Aiken, Allendale, Bamberg, Barnwell, Calhoun and Orangeburg counties. Region 6 includes Georgetown, Horry and Williamsburg counties. Region 7 includes Berkeley, Charleston, and Dorchester counties. Region 8 includes Beaufort, Colleton, Hampton, and Jasper counties.

16. “Fiscal year” means a period of twelve (12) consecutive months beginning July 1 and ending June 30. The term may be referred to as FY and carries the date of the calendar year in which it ends. As an example, the fiscal year ending June 30, 2012 may be referred to as FY2012.

17. “Manufacturer’s brands” means a manufacturer’s name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer has legal responsibility.

18. “Notebook computer” means a portable computer device, to include laptop computers, notepad computers, netbook computers and tablet computers.

19. “Person” means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, government entity, public benefit corporation, or public authority.

20. “Printing device” means a desktop printer that prints on paper and is designed for use with a desktop or portable computer. The term includes, but is not limited to, a daisy wheel, dot matrix, inkjet or laser printer. The term includes devices that perform other functions in addition to printing such as copying, scanning or transmitting a facsimile, but does not include free-standing devices that are primarily copiers or facsimile machines used independently of desktop or portable computers. It does not include floor-standing printers, small household printers such as a calculator with printing capabilities or label makers, or printing devices that are embedded into products that are not covered computer devices.

21. “Recover” means to reuse or recycle.

22. “Recoverer” means a person or entity that reuses or recycles a covered device.

23. “Regional” means, for the purpose of this regulation, an area encompassing more than one county. A regional collection event would be made available to consumers without limiting access to one county of residence.

24. “Repairers” means a person or entity that repairs or refurbishes covered devices for resale or reuse but does not disassemble covered devices for the purpose of recycling the component parts or subassemblies. Repairers may also be collectors.

25. “Retail sale” means the sale of a new product through a sales outlet, the Internet, mail order, or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.

26. “Retailer” means a person engaged in retail sales.

27. “Reuse organizations” means a public or private, for-profit or not-for-profit organization that accepts covered devices for resale or reuse but does not disassemble covered devices for the purpose of recycling the component parts or subassemblies. Reuse organizations may also be collectors.

28. “Sale” or “sell” means any transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not mean leases.

29. “Shortfall fee” means a fee due to the Department from the manufacturer of a covered television device that fails to achieve its individual recycling obligation for the previous program year.



30. “Subassemblies” means pieces of a covered device that have been disconnected by breakage or removed during disassembly of the device. It does not refer to a keyboard, mouse, speaker or other peripheral device.

31. “Television” means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

32. “Television manufacturer” means a person who:

a. manufactures covered television devices under a brand that it licenses or owns, for sale in this State;

b. manufactures covered television devices without affixing a brand for sale in this State;

c. resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;

d. imports covered television devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer;

e. manufactures covered television devices, supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale in this State of those covered television devices through the distribution network; or

f. assumes the responsibilities and obligations of a television manufacturer under this chapter. In the event the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be included in the definition of television manufacturer under items (a) or (c) above.

#### C. Consumer Responsibilities.

After July 1, 2011, a consumer must not knowingly place or discard a covered device or any of the components or subassemblies of a covered device in any waste stream that is to be disposed of in a solid waste landfill.

#### D. Responsibilities of Manufacturers of Covered Computer Devices.

1. Initial Requirements. Ninety (90) days after the effective date of this regulation, the manufacturer of a covered computer device may not sell or offer to sell in this State, a covered computer device unless it has met the requirements for labeling, collection and recovery program design and registration outlined below, including payment of fees in accordance with Section D.3 of this regulation:

a. Labeling requirements. A label indicating the manufacturer of a covered computer device's brand must be permanently affixed to the covered device in a readily visible location.

b. Collection and recovery program requirements. The manufacturer of a covered computer device shall provide a collection and recovery program to consumers. The program shall be at no charge or with an equivalent financial incentive to the consumer.

(1) A manufacturer collection and recovery program must offer to collect from a consumer a covered computer device bearing a label as provided in Section D.1.a of this regulation.

(2) A collection and recovery program must include:

(a) a mail-back program, in which a consumer can return that manufacturer's covered device by mail, including a system in which a consumer can access the Internet, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the manufacturer of a covered computer device; or

(b) in coordination with the Department, the designation of a minimum of four collection points, to include one located in four different EQC regions, as defined by this regulation, and made available on an on-going basis for the collection and recovery of that manufacturer's covered computer devices; or

(c) in coordination with the Department, an annual offering of a minimum of eight collection events, to include one located in each of the eight different EQC regions as defined by this regulation. Collection programs making use of collection events must include collection of any covered computer device.

(3) A manufacturer may work cooperatively with retailers, recoverers, local governments or reuse organizations to implement a collection and recovery program and may make use of existing infrastructure.

(4) Manufacturers of covered computer devices may work collectively and cooperatively to offer collection services to consumers.

(5) A computer manufacturer that maintains an Internet website shall provide and maintain a description of the collection programs and collection events offered in South Carolina by the manufacturer.

(6) Materials collected as part of a manufacturer collection and recovery program must be reused or recycled by a recoverer that is compliant with the ~~Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program~~, responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries or other comparable industry or governmental standards.

c. Initial registration requirements.

(1) The manufacturer shall submit to the Department the initial registration fee as required by Section D.3.

(2) The manufacturer shall submit to the Department or to the Department-designated third-party registrar, a completed Computer Devices Manufacturer Registration Form, using the form provided by the Department.

(3) The manufacturer shall submit to the Department or to the Department-designated third-party registrar, a completed Computer Devices Collection and Recovery Plan. The Department shall review plans submitted by manufacturers to determine if they are compliant with the requirements of this regulation. A Computer Devices Collection and Recovery Plan shall include:

(a) a complete description of the methods to be used to collect and transport the covered computer devices;

(b) for manufacturers that do not provide a mail back system, a list of collection sites or events to be provided on an annual basis, as coordinated with the Department;

(c) a description of the processes and methods to be used to collect and recover the covered computer devices including the name and location of all recoverers to be utilized;

(d) a description of the means to be used to publicize the collection services, including specification of a website or other mechanisms used to provide information about the registrant's recycling program in sufficient detail to allow consumers to learn how to return their covered computer devices for recovery; and

(e) the intention of the registrant to implement the collection program through its own operations, either individually or with other registered manufacturers, or by contract with others, to include retailers, recoverers, not-for-profit corporations, or local governments.

2. Annual Requirements for Computer Manufacturers. In the fiscal year following its initial registration, and every year thereafter, the manufacturer of a covered computer device shall, within ninety (90) days of the end of the fiscal year, submit:

a. to the Department, the appropriate annual fee as outlined in Section D.3 of this regulation;

b. to the Department or to the Department-designated third-party registrar, any corrections, as necessary, to its registration information;

c. to the Department or to the Department-designated third-party registrar, any updates or revisions, as necessary, to its Computer Devices Recovery Plan; and

d. a summary of its previous year's collection efforts including the amounts of materials collected in South Carolina, by type of covered device, and collection method ~~and county of generation~~. Manufacturers are encouraged to include recovery data for other electronic devices in their annual summary if such information is available.

3. Registration Fees for the Manufacturer of a Covered Computer Device.

a. Initial registration fee schedule:

(1) The manufacturer of a covered computer device with annual sales in South Carolina greater than twenty-five thousand (25,000) covered devices will pay an initial registration fee of fifteen thousand dollars (\$15,000.00).

(2) The manufacturer of a covered computer device with annual sales in South Carolina greater than five thousand (5,000) covered devices and less than or equal to twenty-five thousand (25,000) covered devices will pay an initial registration fee of ten thousand dollars (\$10,000.00).

(3) The manufacturer of a covered computer device with annual sales in South Carolina greater than one thousand (1,000) covered devices and less than or equal to five thousand (5,000) covered devices will pay an initial registration fee of one dollar (\$1.00) per unit, up to a maximum of two thousand dollars (\$2,000.00).

(4) A manufacturer of a covered computer device that sells one thousand (1,000) or less covered devices per year in South Carolina is exempt from any fee.

b. Annual renewal fee schedule:

(1) The manufacturer of a covered computer device with annual sales in South Carolina of greater than twenty-five thousand (25,000) covered devices will pay an annual renewal registration fee of ten thousand dollars (\$10,000.00).

(2) The manufacturer of a covered computer device with annual sales in South Carolina greater than five thousand (5,000) covered devices and less than or equal to twenty-five thousand (25,000) covered devices will pay an annual renewal fee of five thousand dollars (\$5,000.00).

(3) The manufacturer of a covered computer device with annual sales in South Carolina greater than one thousand (1,000) covered devices and less than or equal to five thousand (5,000) covered devices will pay an annual renewal fee of seventy-five cents (\$0.75) per covered computer device sold, up to a maximum of one thousand dollars (\$1,000.00).

(4) A manufacturer of a covered computer device that sells one thousand (1,000) or less covered devices per year in South Carolina is exempt from any fee.

4. The manufacturer of a covered computer device who fails to comply with any requirement of Section D of this regulation is subject to a fine not to exceed one thousand dollars (\$1,000.00) per violation.

E. Responsibilities for the Manufacturers of Covered Television Devices.

1. Within thirty (30) days of the effective date of this regulation, the manufacturer of a covered television device shall provide the Department with contact information for the manufacturer's designated agent or employee whom the Department may contact for information related to the manufacturer's compliance with the requirements of Section E of this regulation.

2. Ninety (90) days after the effective date of this regulation, the manufacturer of a covered television device may not sell or offer to sell in this State, a covered television device

unless it has met the requirements for labeling, collection and recovery program design, and registration described below, and has paid fees as required in Section E.5 of this regulation.

a. Labeling requirements. A label indicating the television manufacturer's brand must be permanently affixed to the covered device in a readily visible location.

b. Collection and recovery programs. The manufacturer of a covered television device shall provide a collection and recovery program to consumers at no charge or with an equivalent financial incentive.

(1) A manufacturer collection and recovery program must offer to collect from a consumer, a covered television device bearing a label as provided in Section E.2.a of this regulation.

(2) A collection and recovery program must include:

(a) a mail-back program, in which a consumer can return a covered television device by mail, including a system in which a consumer can access the Internet, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the television manufacturer; or

(b) in coordination with the Department, the designation of a minimum of four regional collection points, to include one located in four different EQC regions, as defined by this regulation, for the collection and recovery of covered television devices on an ongoing basis; or

(c) in coordination with the Department, an annual offering of a minimum of eight collection events, to include one located in each of the eight different EQC regions, as defined by this regulation, for the collection and recovery of covered television devices.

(3) A manufacturer may work cooperatively with retailers, recoverers, local governments or reuse organizations to implement a collection and recovery program and may make use of existing infrastructure.

(4) Television manufacturers may work collectively and cooperatively to offer collection services to consumers.

(5) A television manufacturer that maintains an Internet website shall provide and maintain a description of the collection programs and events offered in South Carolina by the manufacturer.

(6) Materials collected as part of a manufacturer collection and recovery program must be reused or recycled by a recoverer that is compliant with the ~~Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program~~, responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries or other comparable industry or governmental standards.

c. Initial registration requirements.

(1) The manufacturer shall submit to the Department the initial registration fee as defined by Section E.5 of this regulation.

(2) The manufacturer shall submit to the Department or to the Department-designated third-party registrar, a completed Television Devices Manufacturer Registration Form, using the form issued by the Department.

(3) The manufacturer shall submit to the Department or to the Department-designated third-party registrar, a complete Television Devices Collection and Recovery Plan. The Department shall review plans submitted by manufacturers to determine if they are compliant with the requirements of this regulation. A Television Devices Collection and Recovery Plan shall include:

(a) a complete description of the methods to be used to collect and transport the covered television devices;

(b) for manufacturers that do not provide a mail back system, a list of collection sites or events to be provided on an annual basis, as coordinated with the Department;

(c) a detailed description of the processes and methods to be used to collect and recover covered television devices including the name and location of all recoverers used;

(d) a description of the means to be used to publicize the collection services, including specification of a website or other mechanism to provide information about the registrant's recycling program in sufficient detail to allow consumers to learn how to return their covered television devices for recovery; and

(e) the intention of the registrant to implement the collection program through its own operations, either individually or with other registered manufacturers, or by contract with others, to include retailers, recoverers, not-for-profit corporations, or local governments.

### 3. Annual Requirements for Television Manufacturers.

a. For the fiscal year following its initial registration, and every year thereafter, the manufacturer of a covered television device shall, within ninety (90) days of the end of the fiscal year, submit to the Department, the appropriate fees as outlined in Section E.5 of this regulation.

b. For the fiscal year following its initial registration, and every year thereafter, the manufacturer of a covered television device shall, within ninety (90) days of the end of the fiscal year, submit to the Department or to the Department-designated third-party registrar, an annual report, including at a minimum:

(1) the total weight of manufacturer's televisions sold at retail in the United States;

(2) a summary of the collection programs hosted by the manufacturer in South Carolina during the previous year, including the locations of the collections, the total weight of covered television devices recovered as part of the programs, the names of the collectors and recoverers used, and an explanation of any cooperative collection partnership arrangements with other entities, including retailers, recyclers, local governments and reuse organizations;

(3) the total weight of covered television devices collected and recycled nationally during the previous program year;

(4) any corrections, as necessary, to its registration information; and

(5) any updates or revisions, as necessary, to its Television Devices Recovery Plan, especially as related to how the manufacturer plans to meet its recycling obligation as calculated by the Department.

c. The program year for a collection and recovery program and for these reporting requirements is the state's fiscal year.

4. Beginning fiscal year 2013, and annually thereafter, the manufacturer of a covered television device must recycle or arrange for the recycling of its individual recycling obligation of covered television devices as calculated by the Department. Not later than December 31 of each year, the Department shall inform television manufacturers of their market share recycling obligations of covered television devices as calculated using collection data from the previous fiscal year.

a. The manufacturer of a covered television device may fulfill the requirements of this section either individually or in participation with other television manufacturers. A recovery program may use existing collection and consolidation infrastructure for collecting covered television devices, including retailers, recoverers and reuse organizations.

b. The individual recycling obligation for each television manufacturer is the total pounds of televisions recovered in South Carolina by all television manufacturers during the previous program year multiplied by the manufacturer's market share as calculated in Section 4.c of this regulation.

c. Market share is the total weight of the manufacturer's televisions that were sold at retail in the United States to individuals during the previous program year, multiplied by the population fraction of South Carolina to the United States population, divided by the total weight of all of the televisions that were sold at retail to individuals in South Carolina during the previous program year. The population fraction is determined using the most recent United States Census data.

#### 5. Television Manufacturer Fee Schedule.

a. Initial registration fee schedule:

(1) The manufacturer of a covered television device with a market share greater than five percent (5%) will pay an initial registration fee of five thousand dollars (\$5,000.00).

(2) The manufacturer of a covered television device with a market share greater than one percent (1%) and less than or equal to five percent (5%), will pay an initial registration fee of twenty-five hundred dollars (\$2,500.00).

(3) The manufacturer of a covered television device that sells more than one thousand (1,000) covered devices in South Carolina annually, and has a covered television device market share of less than or equal to one percent (1%), will pay an initial registration fee of one thousand dollars (\$1,000.00).

(4) A manufacturer of a covered television device that sells one thousand (1,000) or less covered devices per year in South Carolina is exempt from any fee.

b. Annual renewal fee schedule:

(1) The manufacturer of a covered television device with a market share greater than five percent (5%) will pay an annual renewal fee of thirty-five hundred dollars (\$3,500.00)

(2) The manufacturer of a covered television device with a market share greater than one percent (1%) and less than or equal to five percent (5%), will pay an annual renewal fee of twenty-five hundred dollars (\$2,500.00).

(3) The manufacturer of a covered television device that sells more than one thousand (1,000) devices in South Carolina annually, and has a market share of less than or equal to one percent (1%), will pay an annual renewal fee of seven hundred fifty dollars (\$750.00).

(4) A manufacturer of a covered television device that sells one thousand (1,000) or less devices per year in South Carolina is exempt from an annual renewal fee.

c. Television manufacturers shortfall fees.

(1) In addition to initial and annual registration fees, the manufacturer of a covered television device that fails to meet its individual recycling obligation for the previous program year as outlined in Section E.4 of this regulation will be assessed a shortfall fee. The shortfall fee will be determined as follows:

(a) If the manufacturer of a covered television device recycles at least ninety percent (90%), but less than one hundred percent (100%) of its individual recycling obligation, the shortfall fee will be thirty cents (\$0.30) multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

(b) If the manufacturer of a covered television device recycles at least fifty percent (50%), but less than ninety percent (90%) of its individual recycling obligation, the shortfall fee will be forty cents (\$0.40) multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

(c) If the manufacturer of a covered television device recycles less than fifty percent (50%) of its individual recycling obligation, the shortfall fee will be fifty cents (\$0.50) multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

(2) Shortfall fees shall be submitted to the Department along with the annual manufacturer report and renewal fee.

(3) A manufacturer shall calculate its shortfall fees based upon the recycling data reported in its annual report, using the market share obligation as calculated by the Department and reported to the manufacturer.



(4) A manufacturer of a covered device that sells one thousand (1,000) or less devices per year is exempt from any shortfall fee.

6. The manufacturer of a covered device who fails to comply with the requirements of Section E is subject to a fine not to exceed one thousand dollars (\$1,000.00) per violation.

#### F. Retailer Requirements.

1. Six (6) months after the effective date of this regulation, a retailer may not sell or offer to sell a covered device unless a label indicating the manufacturer's brand is permanently affixed to the covered device in a readily visible location.

2. Six (6) months after the effective date of this regulation, a retailer may not sell or offer to sell a covered device unless the manufacturer of covered device offers a collection and recovery program. The Department shall provide in an annual report and on its Internet website a list of which manufacturers of covered devices are compliant with the collection and recovery program requirements. The retailer shall be considered to have satisfied this responsibility if, on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the Department's Internet web site.

3. The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars (\$100.00).

4. A retailer violating any provision of this section shall be subject to a fine not to exceed two hundred dollars (\$200.00) per violation.

#### G. South Carolina Recoverer Requirements.

1. Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements.

2. Within sixty (60) days of the effective date of this regulation, no recoverer may accept covered devices unless they have:

a. registered with the Department in accordance with Section G.4 of this regulation;  
and

b. funded a financial assurance mechanism as described in Section G.7 of this regulation in the amount of one hundred fifty thousand dollars (\$150,000.00) for a regular registration, and two hundred fifty thousand dollars (\$250,000.00) for a conditional registration pursuant to Section G.4.

3. The financial responsibility requirements of G.2.b shall not apply to any local government or region comprised of local governments which owns and operates a recovery facility unless and until such time as federal regulations require such local governments and regions to demonstrate financial responsibility for such facilities.

4. To register, a recoverer must submit to the Department:

a. a registration request;

- b. the name, address and contact information for the facility;
- c. documentation that the recoverer has secured a financial assurance mechanism in accordance with Section G.2 above; and
- d. documentation that the recoverer is compliant with the ~~Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program~~, responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries or other comparable industry or governmental standards.

5. Recoverers that have not yet obtained compliance with the requirements of Section G.4.d of this regulation may request a conditional registration.

a. Recoverers requesting a conditional registration must demonstrate that they are undergoing a process to gain compliance with the requirements of Section G.4.d of this regulation, including timelines for beginning operations and for requesting and obtaining certification or other approval.

b. A recoverer operating under a conditional registration will have twelve (12) months from the date of registration to submit to the Department evidence that they are compliant with the requirements of Section G.4.d of this regulation, unless otherwise approved by the Department. One (1) extension of a conditional registration will be considered for a period of not more than six (6) additional months. Extension requests must be made in writing and include evidence to document that the recoverer has made substantial progress toward obtaining a certification or verification of compliance.

c. If a recoverer operating under a conditional registration fails to gain compliance with the requirements of Sections G.4.d, G.5.a and G.5.b of this regulation, the Department may, with proper notice, revoke the recoverer's registration.

d. Recoverers that have obtained a conditional registration may accept covered devices provided they comply with all other federal, state and local requirements, to include meeting the requirements for financial assurance.

6. The Department will not register a recoverer that submits an incomplete registration request. A recoverer that fails to provide documentation as required in Section G of this regulation shall not be registered by the Department.

7. Allowable Mechanisms to Demonstrate Financial Assurance.

a. Recoverers shall fund a financial assurance mechanism acceptable to the Department to ensure the third-party costs to complete closure by properly managing of any electronics, electronic subassemblies or residual waste material remaining onsite at the time a registration is revoked or terminated.

b. The mechanisms used to demonstrate financial assurance shall ensure that the funds necessary to meet obligations under Sections G.2.b of this regulation will be available whenever they are needed.

c. Available financial assurance mechanisms include, but are not limited to insurance, trust funds, surety bonds, letters of credit, certificates of deposit, or other mechanism as approved by the Department.

8. Annual Reporting. Not later than ninety (90) days after the end of the fiscal year, a recoverer shall report to the Department using the form issued by the Department. The report shall include:

a. the number or the total pounds of covered devices recovered by category of device, i.e. computers, televisions, printers; covered computer devices and covered television devices;

b. a listing of the sources of the devices, including the county in which they were collected;

c. a general description of the methods used to disassemble or process the devices and subassemblies;

d. the final disposition or destinations of the devices or subassemblies recovered;

e. a certification from the recoverer that the recoverer remains compliant with the Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program; responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries or other comparable industry or governmental standards; and

f. any other updates to the information provided in their initial registration.

9. The Department shall provide to the public in an annual report and on its Internet website a list of South Carolina recoverers that have satisfied the requirements as specified in Section G of this regulation. The Department may, with proper notice, revoke the registration of any recoverer that fails to demonstrate continued compliance with the requirements of Section G of this regulation.

10. Entities that only repair or resell covered devices are exempted from the requirements of Section G provided that they comply with all other applicable federal, state and local requirements and provided that any covered devices and subassemblies not reused or sold are managed by a recoverer that is compliant with the standards of Section G.4.d of this regulation.

11. Reuse organizations, repairers, local governments and other entities that consolidate covered devices prior to transfer to a recoverer that is compliant with the standards of Section G.4.d of this regulation are exempted from the requirements of Section G provided they do not disassemble covered devices for the purpose of disposing or recycling the component parts or subassemblies and provided they manage covered devices in a manner that complies with all other applicable federal, state and local requirements.

#### H. Landfill Owner or Operator Requirements.

1. An owner or operator of a Class Three solid waste landfill must not, at the gate, knowingly accept for disposal, loads containing more than an incidental amount of covered devices or subassemblies of those devices.

2. Within thirty (30) days of the effective date of this regulation, the owner or operator of a Class Three solid waste landfill shall post, in a conspicuous location at the landfill, a sign stating that consumer televisions, computers, printing devices or any subassemblies of those devices are not accepted for disposal at the landfill.

3. Within thirty (30) days of the effective date of this regulation, the owner or operator of a Class Three solid waste landfill shall notify in writing, all haulers delivering solid waste to the landfill, that consumer televisions, computers, printing devices and any subassemblies of those devices are not accepted for disposal at the landfill. The owner or operator shall submit documentation to the Department that this requirement has been met. Haulers, for the purpose of Section H of this regulation, do not include consumers who haul their own waste to the landfill.

4. An owner or operator of a Class Three landfill who fails to comply with the requirements of Section H.1 of this regulation is subject to a fine not to exceed one thousand dollars (\$1,000.00) per violation. An owner or operator of a landfill who fails to comply with the requirements of Sections H.2 or H.3 of this regulation is subject to a fine not to exceed two hundred dollars (\$200.00) per violation.

5. An owner or operator of a Class One or Class Two solid waste landfill shall not accept for disposal, loads containing covered devices or subassemblies of those devices, in accordance with this regulation and Regulation 61-107.19. Solid Waste Management: Solid Waste Landfills and Structural Fill.

6. A Class One or Class Two landfill operator who fails to comply with the requirements of section H.5 is subject to a fine not to exceed one thousand dollars (\$1,000.00) per violation.

#### I. Confidentiality.

Financial and proprietary information as identified by the manufacturer of a covered device and submitted to the Department pursuant to this regulation is exempt from public disclosure.

#### J. Appeals.

Any person to whom a Department decision is issued may appeal it as a contested case pursuant to S.C. Code Section 44-1-60, as amended.

#### K. Severability.

Should any section, paragraph, sentence, word, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

## **ATTACHMENT D**

Drafting Notice for Regulation 61-118  
Electronic Equipment Collection and Recovery

### **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

#### **CHAPTER 61**

Statutory Authority: 1976 Code Sections 48-60-05 et seq. (2010 Act 178)

#### **Notice of Drafting:**

The Department of Health and Environmental Control proposes to draft a new regulation that addresses standards for the sale, recovery and disposal of certain types of electronic equipment. Interested persons may submit their views by writing to Kent Coleman at S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on November 22, 2010, the close of the drafting comment period.

#### **Synopsis:**

During the 2010 legislative session, the General Assembly enacted Act 178, known as the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, codified at S.C. Code Ann Section 48-60-05 et seq. As required by the Act, the Department is proposing to promulgate a new regulation that will address and implement the applicable provisions of the Act. The regulation will include, but not be limited to: responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act; standards for the collection and use of fees as provided for in the Act; standards for the safe, environmentally responsible recovery, recycling or disposal of discarded devices; reporting requirements; and liability issues for information stored on discarded devices. The regulation will also establish fines for violations of the Act and the regulation. The proposed regulation will become effective not earlier than July 1, 2011. Legislative review will be required.



**ATTACHMENT E - EXCERPT OF STATE REGISTER NOPR  
PROPOSED REGULATIONS 15**

fee has remained at \$500 since being implemented June 1989 as a component of the “Review Fee” initially and then the “Filing Fee.” S.C. Code Ann. Section 44-7-180 (D) authorized the Department to charge and collect fees to cover the cost of operating the Certificate of Need program.

**UNCERTAINTIES OF ESTIMATES:**

The revision of Regulation 61-15 will not create a burden for the public, the State or its political subdivisions.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

There will be no effect on the environment or public health.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE  
REGULATION IS NOT IMPLEMENTED:**

There will be no detrimental effect on the environment and public health if the amendments are not implemented. However, there could be an adverse effect on the Department’s ability to review applications and determinations in a timely manner if fees are not raised and implemented to ensure funding for adequate staffing.

**Statement of Rationale:**

Pursuant to the requirements of 2010 Act No. 278 the Department is promulgating these regulations to comply with the Act. The Department also intends to make other revisions since the last revision of R.61-15 was effective June 27, 2003. The proposed amendments will increase filing, application and issuance fees for certificate of need applications; add provisions requiring the submission of information related to quality of patient care and make other changes to improve the overall quality of the regulation, such as deleting references that are obsolete, revisions for clarity, language style, consistency, grammar, punctuation, codification and other stylistic changes. **Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4179

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**CHAPTER 61**

Statutory Authority: 1976 Code

Sections 48-60-05 et seq.

61-118. Electronic Equipment Collection and Recovery

**Preamble:**

The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended, establishes requirements for the sale, disposal and recovery of covered electronic devices, specifically for household...

*South Carolina State Register Vol. 35, Issue 1  
January 28, 2011*





**ATTACHMENT F**  
**SUMMARY OF PUBLIC COMMENTS, DEPARTMENT RESPONSES, AND REVISIONS**  
**PROPOSED NEW REGULATION 61-118 SWM: ELECTRONIC EQUIPMENT COLLECTION AND RECOVERY**  
**STATE REGISTER DOCUMENT NO. 4179**  
**March 24, 2011**

No comments were received during the Notice of Drafting public comment period.  
All comments received were during the Notice of Proposed Regulation comment period or at the NOPR Public Information Forum.

▲ Indicates a comment received during the Staff Informational Forum

NAME	SECTION CITATION	COMMENT	RESPONSE
1. Klarissa Durham	None specified.	Supports the Act 100%	Noted.
2. Randall L. Essick, Waste Management, Elgin, SC	None specified.	Supports the proposed regulation and appreciates the process for stakeholder development where their questions and concerns were addressed.	Noted.
3. Jake Kilgus, TJ Metal Recyclers, Blackville, SC ▲	None specified.	Concerned that consumers will resort to roadside dumping if covered devices are prevented from traditional disposal or incur additional expense to recycle.	No Change. The disposal restrictions and recycling requirements in the proposed regulation were developed in accordance with the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act. The Department will follow all appropriate procedures for compliance and enforcement of the law and the regulation. The Department will also perform outreach activities to inform consumers of their legal recycling options. With regard to additional expense, the statute prohibits local governments from charging consumers a recycling fee and requires manufacturers of covered devices to provide recovery programs at no charge.
4. Jake Kilgus, TJ Metal Recyclers, Blackville, SC ▲	None specified.	Believes there is limited to no recycling options for CRT glass and would like to see the regulation provide research funding to develop technology for beneficial recovery.	No Change. Recycling options for CRTs are available although the Department recognizes that transportation costs are an issue. As the market share for CRT devices declines, there is an expectation that this will become a decreasing concern.
5. Jake Kilgus, TJ Metal Recyclers, Blackville, SC ▲	None specified.	Concerned that CRT glass or other covered devices may be transported across state lines for disposal to circumvent recycling in SC.	No Change. Entities that dismantle covered devices must register as a recoverer and be compliant with the R2/RIOS standards. Entities that consolidate covered devices must deliver those devices to a recoverer that is compliant. The Department will follow all appropriate procedures for

6. Erica Logan, Information Technology Industry Council, Washington, DC	B. 12	Add “including displays which are designed primarily to display signals from a computer” to clarify computer monitors are not television devices.	<p>compliance and enforcement of the regulation.</p> <p>Accepted.</p> <p><u>Text as proposed in SR:</u>  12. “Covered television device” means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.</p> <p><u>Revision:</u>  12. “Covered television device” means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device, <u>including displays which are designed primarily to display signals from a computer.</u></p>
7. Art Braswell, Braswell Consulting, LLC, Columbia, SC ▲	B. 15 D.1.b.(2)(b) D.1.b.(2)(c) E.2.b.(2)(b) E.2.b.(2)(c)	Regulation needs to be clarified in the event EQC Regions change from current structure and how would the number and location of collection events be affected by shrinking or expanding regional boundaries.	<p>Accepted.</p> <p><u>Text as proposed in SR:</u>  B. 15. “EQC Region” means one of the eight Environmental Quality Control regions comprised of three or more counties designated by the Department’s Bureau of Environmental Services and mapped on the Department website.</p> <p><u>Revision:</u>  B. 15. “EQC Region” means, <u>for the purposes of this regulation,</u> one of</p>

		<p>the eight Environmental Quality Control regions comprised of <del>three or more counties designated by the Department's Bureau of Environmental Services and mapped on the Department website as follows:</del> <u>Region 1 includes Abbeville, Anderson, Edgefield, Greenwood, Laurens, McCormick, Oconee, and Saluda counties. Region 2 includes Cherokee, Greenville, Pickens, Spartanburg, and Union counties. Region 3 includes Chester, Fairfield, Lancaster, Lexington, Newberry, Richland and York counties. Region 4 includes Chesterfield, Clarendon, Darlington, Dillon, Florence, Kershaw, Lee, Marion, Marlboro and Sumter counties. Region 5 includes Aiken, Allendale, Bamberg, Barnwell, Calhoun and Orangeburg counties. Region 6 includes Georgetown, Horry and Williamsburg counties. Region 7 includes Berkeley, Charleston, and Dorchester counties. Region 8 includes Beaufort, Colleton, Hampton, and Jasper counties.</u></p> <p><u>Text as proposed in SR:</u> D.1.b.(2)(b) in coordination with the Department, the designation of a minimum of four collection points located in four different EQC regions and made available on an on-going basis for the collection and recovery of that manufacturer's covered computer devices; or</p> <p><u>Revision:</u> D.1.b.(2)(b) in coordination with the Department, the designation of a minimum of four collection points, <u>to include one</u> located in four different EQC regions, <u>as defined by this regulation</u>, and made available on an on-going basis for the collection and recovery of that manufacturer's covered computer devices; or</p> <p><u>Text as proposed in SR:</u> D.1.b.(2)(c) in coordination with the Department, an annual offering of a minimum of eight collection events located in eight different EQC regions. Collection programs making use of collection events must include collection of any covered computer device.</p> <p><u>Revision:</u> D.1.b.(2)(c) in coordination with the Department, an annual offering of a minimum of eight collection events, <u>to include one</u> located in <u>each of the eight different</u> EQC regions <u>as defined by this regulation</u>. Collection</p>
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			<p>programs making use of collection events must include collection of any covered computer device.</p> <p><u>Text as proposed in SR:</u> E.2.b.(2)(b) in coordination with the Department, the designation of a minimum of four regional collection points, located in four different EQC regions, for the collection and recovery of covered television devices on an ongoing basis; or</p> <p><u>Revision:</u> E.2.b.(2)(b) in coordination with the Department, the designation of a minimum of four regional collection points, <u>to include one</u> located in four different EQC regions, <u>as defined by this regulation</u>, for the collection and recovery of covered television devices on an ongoing basis; or</p> <p><u>Text as proposed in SR:</u> E.2.b.(2)(c) in coordination with the Department, an annual offering of a minimum of eight collection events, located in eight different EQC regions, for the collection and recovery of covered television devices.</p> <p><u>Revision:</u> E.2.b.(2)(c) in coordination with the Department, an annual offering of a minimum of eight collection events, <u>to include one</u> located in <u>each of the eight different</u> EQC regions, <u>as defined by this regulation</u>, for the collection and recovery of covered television devices.</p>
8. Erica Logan, Information Technology Industry Council, Washington, DC	B. 7. D.1.b.(6) E.2.b.(6) G.4.d. G.8.e.	Change text to documentation “with RIOS or R2 or other comparable standard”. A recoverer should not need to produce documentation for both programs.	<p>Accepted in Part. RIOS and R2 standards are not interchangeable; therefore the use of the word “or” in this example is not appropriate. However, the Department recognizes that certain certifications, including R2 certification or E-Stewards certification, when combined with a quality management system, would be indicative of compliance with the R2/RIOS standards.</p> <p><u>Text as proposed in SR:</u> B. 7. “Conditional registration” means the temporary registrations issued by the Department to recoverers of covered devices that have not yet demonstrated to the satisfaction of the Department that they comply with the Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program, or other comparable industry or</p>

			<p>governmental standards.</p> <p><u>Revision:</u>  B. 7. “Conditional registration” means the temporary registrations issued by the Department to recoverers of covered devices that have not yet demonstrated to the satisfaction of the Department that they comply with the <del>Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program,</del><u>responsible recycling practices (R2/RIOS) developed by the institute of Scrap Recycling Industries</u> or other comparable industry or governmental standards.</p> <p><u>Text as proposed in SR:</u>  D.1.b.(6) Materials collected as part of a manufacturer collection and recovery program must be reused or recycled by a recoverer that is compliant with the Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program, or other comparable industry or governmental standards.</p> <p><u>Revision:</u>  D.1.b.(6) Materials collected as part of a manufacturer collection and recovery program must be reused or recycled by a recoverer that is compliant with the <del>Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program,</del><u>responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries</u> or other comparable industry or governmental standards.</p> <p><u>Text as proposed in SR:</u>  E.2.b.(6) Materials collected as part of a manufacturer collection and recovery program must be reused or recycled by a recoverer that is compliant with the Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program, or other comparable industry or governmental standards.</p> <p><u>Revision:</u>  E.2.b.(6) Materials collected as part of a manufacturer collection and recovery program must be reused or recycled by a recoverer that is compliant with the <del>Recycling Industry Operating Standards (RIOS) and the Responsible</del></p>
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			<p><del>Recycling (R2) Practices Program, responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries</del> or other comparable industry or governmental standards.</p> <p><u>Text as proposed in SR:</u> G.4.d. documentation that the recoverer is compliant with the Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program, or other comparable industry or governmental standards.</p> <p><u>Revision:</u> G.4.d. documentation that the recoverer is compliant with the <del>Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program,</del> <u>responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries</u> or other comparable industry or governmental standards.</p> <p><u>Text as proposed in SR:</u> G.8.e. a certification from the recoverer that the recoverer remains compliant with the Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program, or other comparable industry or governmental standards; and</p> <p><u>Revision:</u> G.8.e. a certification from the recoverer that the recoverer remains compliant with the <del>Recycling Industry Operating Standards (RIOS) and the Responsible Recycling (R2) Practices Program,</del> <u>responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries</u> or other comparable industry or governmental standards; and</p>
9. Katie Reilly, Electronic Recyclers International, Inc., Washington, DC	D.1.b.(6) E.2.b.(6) G.4.d. G.8.e.	Will recyclers that are R2 certified only be able to participate in the South Carolina program? Is the E-Stewards certification considered a comparable industry or government standard? It would be beneficial to make this clear in the regulation.	See responses to comment 8 above. The Department acknowledges that the proposed language, in conjunction with the language from the Act, was not clear.
10. Katie Reilly, Electronic Recyclers International, Inc.,	D.2.d. E.3.b.(2) G.8.a.	To keep costs of collection and recycling lower, reporting for manufacturers and recoverers should be broken down into only	Accepted in Part. Sections D and E pertaining to manufacturers require no change. Section G. pertaining to Recoverer reporting will be revised.

Washington, DC		two categories; computer devices and television devices.	<p><u>Text as proposed in SR:</u> G.8.a. the number or the total pounds of covered devices recovered by category of device, i.e. computers, televisions, printers;</p> <p><u>Revision:</u> G.8.a. the number or the total pounds of covered devices recovered by category of device, i.e. <del>computers, televisions, printers;</del><u>covered computer devices and covered television devices;</u></p>
11. Erica Logan, Information Technology Industry Council, Washington, DC	D. 2(d)	Remove “county of generation” data for computer manufacturers. Data to this level of detail is not possible for mail-back programs and adds significant recordkeeping complexity.	<p>Accepted with specification that reporting be of South Carolina collection data.</p> <p><u>Text as proposed in SR:</u> D. 2(d) a summary of its previous year’s collection efforts including the amounts of materials collected, by type of covered device, collection method and county of generation. Manufacturers are encouraged to include recovery data for other electronic devices in their annual summary if such information is available.</p> <p><u>Revision:</u> D. 2(d) a summary of its previous year’s collection efforts including the amounts of materials collected <u>in South Carolina</u>, by type of covered device, <u>and</u> collection method <del>and county of generation</del>. Manufacturers are encouraged to include recovery data for other electronic devices in their annual summary if such information is available.</p>
12. Erica Logan, Information Technology Industry Council, Washington, DC	D. 3 (a)	Initial registration fee is excessive particularly since “the entire recovery program is run and operated by the manufacturer.” Recommends reduction to \$10K for sales > 25K, \$5K for sales ≤ 25K and > 5K, \$1K for sales ≤ 5K but > 1K, no fees for ≤ 1K sales.	No Change. Registration fees are necessary to implement the statutory requirements of the program and are reasonable compared to fees in other states. The discussions during the stakeholder process proposed fees similar to those of North Carolina, as does the final proposed regulation. The fees proposed are reasonable because computer manufacturers have no mandated take-back quotas or shortfall fees. A reduction in registration fees would result in inadequate funding to implement the program statewide.
13. Erica Logan, Information Technology Industry Council, Washington, DC	D. 3 (b)	The annual renewal fee should be \$5K, \$2.5K, \$500, and \$0 for each respective category listed for D. 3 (a).	No Change. Renewal fees are necessary to implement the statutory requirements of the program and are reasonable compared to fees in other states. A reduction in renewal fees would result in inadequate funding to implement the program statewide.

14. Erica Logan, Information Technology Industry Council, Washington, DC	E. 2	Section E.2. requires manufacturers to pay the initial registration fee within 90 days of the effective date of the Act. If the effective date is July 1, 2011, the initial fee is due by October 1, 2011. It appears that the first time manufacturers will provide sales data to the state is ninety days after the fiscal year following its initial registration (section E.3.b.(1)) which is October 1, 2012. The initial fee due on October 1, 2011 depends on a company's market share (section E.5.(a)). But the state will not be providing market share data until the following year, by December 31, 2012. Consequently, for the initial registration period, a company cannot be sure which category it falls into (greater than 5%; between 1% and 5% or less than 1%).	No Change. As required by the Act, registration fees for television manufacturers are based on market share. For the purposes of the initial registration, market share would be self-reported to the Department. Subsequent years would be adjusted as needed.
15. Robert Lawing, Charleston County, SC	G. 11	Add language to clarify that cutting of electrical cords and limited disassembly for shipping purposes by consolidators prior to transfer to a recoverer is permissible.	No Change. Removal of electrical cords or some limited disassembly for the purpose of ease or safety during transport to a recoverer is not inconsistent with the proposed regulation as written.



## ATTACHMENT G

Act 178 from 2010 South Carolina Legislative Session  
The South Carolina Manufacturer Responsibility and Consumer Convenience Information  
Technology Equipment Collection and Recovery Act  
Section 48-60-5, et seq., S.C. Code of Laws, 1976

South Carolina Manufacturer Responsibility and Consumer Convenience Information  
Technology Equipment Collection and Recovery Act

### SECTION 1.

Title 48 of the 1976 Code is amended by adding:

#### CHAPTER 60

South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology  
Equipment Collection and Recovery Act

Section [48-60-05](#). This chapter may be cited as the 'South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act'.

Section [48-60-10](#). The General Assembly finds:

(1) Televisions, computing, and printing devices are critical to the development of this state's economy and the promotion of the quality of life of the citizens of this State.

(2) Many of these televisions, computing, and printing devices can be refurbished and reused, or recycled.

(3) Developing and implementing a system for recovering televisions, computing, and printing devices promotes resource conservation, public health, public safety, and economic prosperity.

(4) In order to carry out these purposes, the State must establish a comprehensive and convenient recovery program for televisions, computing, and printing devices based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government, and that the program must ensure that end-of-life televisions, computing, and printing devices are disposed of in a manner that promote resource conservation through the development of an effective and efficient system for collection and recycling, and to encourage manufacturers to offer convenient collection and recycling service to consumers at no charge.

Section [48-60-20](#). As used in this chapter:

(1) 'Collect' or 'collection' means to facilitate the delivery of a covered device to a collection site included in the manufacturer's program, and to transport the covered device for recovery.

(2) 'Computer manufacturer' means a person who:

(a) manufactures a covered computer device under its own brand for sale or without affixing a brand;

(b) sells in this State a covered computer device produced by another supplier under its own brand or label;

(c) imports covered computer devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer; or

(d) manufactures a covered computer device, supplies a covered device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

(3) 'Consumer' means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.

(4) 'Covered computer device' means a desktop or notebook computer, computer monitor, or printing device marketed and intended for use by a consumer, but does not include a covered television device.

(5) 'Covered devices' means a covered computer device and a covered television device marketed and intended for use by a consumer. 'Covered device', 'covered computer device', and 'covered television device' do not include any of the following:

(a) a covered device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(b) a covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, emergency services purposes or equipment designed and intended primarily for use by professional users;

(c) a covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment; or

(d) telephones of any type, including mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand-held gaming device.

(6) 'Covered television device' means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(7) 'Department' means the South Carolina Department of Health and Environmental Control.

(8) 'Manufacturer's brands' means a manufacturer's name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer has legal responsibility.

(9) 'Person' means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, government entity, public benefit corporation, or public authority.

(10) 'Recover' means to reuse or recycle.

(11) 'Recoverer' means a person or entity that reuses or recycles a covered device.

(12) 'Retail sale' means the sale of a new product through a sales outlet, the Internet, mail order, or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.

(13) 'Retailer' means a person engaged in retail sales.

(14) 'Sale' or 'sell' means any transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not mean leases.

(15) 'Television' means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(16) 'Television manufacturer' means a person who:

(a) manufactures covered television devices under a brand that it licenses or owns, for sale in this State;

(b) manufactures covered television devices without affixing a brand for sale in this State;

(c) resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;

(d) imports covered television devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer;

(e) manufactures covered television devices, supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale in this State of those covered television devices through the distribution network; or

(f) assumes the responsibilities and obligations of a television manufacturer under this chapter. In the event the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be included in the definition of television manufacturer under items (a) or (c) above.

Section [48-60-30](#). A computer or television manufacturer may not sell or offer to sell a covered device unless a label indicating the computer or television manufacturer's brand is permanently affixed to the covered device in a readily visible location.

Section [48-60-40](#).

(A) A computer manufacturer may not sell or offer to sell in this State a covered computer device unless the computer manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon. A recovery program must:

(1) require a computer manufacturer to offer to collect from a consumer a covered computer device bearing a label as provided in Section [48-60-30](#); and

(2) make the collection service as convenient to a consumer as the purchase of a covered computer device from a computer manufacturer as follows:

(a) A computer manufacturer may utilize a mail-back system in which a consumer can return an end-of-life covered device by mail, including a system in which a consumer can go online, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the computer manufacturer.

(b) If the computer manufacturer does not provide a mail-back system, the computer manufacturer must provide collection sites or collection events, or both, that are centrally located in a county, region, or other locations based on population. Computer manufacturers shall work in coordination with the department to determine an appropriate number of collection sites or collection events, or both.

(B) A recovery program may use existing collection and consolidation infrastructure for collecting covered devices, including retailers, recyclers, and reuse organizations.

(C) Computer manufacturers may work collectively and cooperatively to offer collection services to consumers.

(D) A recovery program must be described on a computer manufacturer's Internet website if a manufacturer maintains an Internet website.

(E) Collection events under this section must accept any covered computer device.

Section [48-60-50](#).

(A) No television manufacturer shall sell or offer for sale a covered television device in this State unless the television manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon.

(B) Beginning on the effective date of this chapter through June 30, 2012, a television manufacturer annually must recycle or arrange for the recycling of covered televisions.

(1) Beginning program year 2012, a television manufacturer annually must recycle or arrange for the recycling of its market share of covered television devices pursuant to this section. Market share, as used in this chapter, is the total weight of the manufacturer's televisions that were sold at retail in the United States to individuals during the previous program year, multiplied by the population fraction of South Carolina to the United States population, divided by the total weight of all of the televisions that were sold at retail to individuals in South Carolina during the previous program year. The individual recycling obligation for each television manufacturer is the total pounds of television recycled by all television manufacturers during the previous program year multiplied by the manufacturer's market share as calculated above. The population fraction is determined by using the most recent United States Census data for the total population of South Carolina divided by the total population of the United States.

(2) The department shall notify each television manufacturer of its market share recycling obligation. A television manufacturer shall provide the department information necessary for the department to calculate market share and to determine each television manufacturer's recycling obligation.

(3) A television manufacturer shall report to the department the total weight of manufacturer's televisions sold at retail in the United States, the state specific television sales data annually calculated using the population fraction of South Carolina to the United States population, and the total weight of televisions collected and recycled in the State during the previous program year.

(4) The program year for a recovery program under this section is the state's fiscal year.

(C) A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers. A recovery program may use existing collection and consolidation infrastructure for collecting covered television devices, including retailers, recyclers, and reuse organizations.

(D) A television manufacturer shall provide the department with contact information for the manufacturer's designated agent or employee whom the department may contact for information related to the manufacturer's compliance with the requirements of this section.

Section [48-60-60](#). A computer or television manufacturer may not be liable for damages arising from information stored on a covered device collected from a consumer under the manufacturer's recovery programs of this chapter.

Section [48-60-70](#).

(A) A retailer only may sell or offer to sell a covered device that:

(1) bears a manufacturer label as provided in Section [48-60-30](#); and

(2) is manufactured by a manufacturer that offers a recovery program as provided in Sections [48-60-40](#) and [48-60-50](#).

(B) The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars.

Section [48-60-80](#). A retailer may not be liable for damages arising from information stored on any covered device collected from a consumer under the manufacturer's recovery program.

Section [48-60-90](#).

(A) After July 1, 2011, a consumer must not knowingly place or discard a covered device or any of the components or subassemblies of a covered device in any waste stream that is to be disposed of in a solid waste landfill.

(B) An owner or operator of a solid waste landfill must not, at the gate, knowingly accept, for disposal, loads containing more than an incidental amount of covered devices.

(C) The owner or operator of a solid waste landfill must post, in a conspicuous location at the landfill, a sign stating that covered devices or any components of covered devices are not accepted for disposal at the landfill.

(D) The owner or operator of a solid waste landfill must notify, in writing, all haulers delivering solid waste to the landfill that covered devices or any components of covered devices are not accepted for disposal at the landfill.

Section [48-60-100](#).

(A) The department shall provide information to the public on its Internet website regarding the provisions of the chapter and the prohibition on disposing of covered devices in a solid waste landfill. The department also shall provide information about recovery programs available in the State on the department's Internet website. The website must include information about collection options available, the definition of covered devices, the proper methods for disposing of covered devices, the proper methods for disposing noncovered devices, and links to relevant portions of computer or television manufacturer's Internet websites.

(B) Any local government eligible to participate in the statewide Electronic Equipment Recycling Services (EERS) contract with the South Carolina Budget and Control Board may not charge a consumer a fee at any point of the recovery process.

Section [48-60-110](#). The department may conduct audits and inspection of a computer or television manufacturer, retailer, or recoverer to determine compliance with this chapter's provisions, and may establish by regulation administrative fines for violations of this chapter.

Section [48-60-120](#). Financial and proprietary information submitted to the department pursuant to this act is exempt from public disclosure.

Section [48-60-130](#). The department shall include in its annual solid waste report information provided by manufacturers on recovery programs offered pursuant to this chapter.

Section [48-60-140](#).

(A) Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements.

(B) Recoverers must at a minimum comply with the responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries or other comparable industry or governmental standards.

Section [48-60-150](#). The department shall promulgate regulations needed to implement this chapter's provisions including, but not limited to, reporting requirements, manufacturers' plans, manufacturers' annual reports, and standards for operations of recovery facilities. The department may propose by regulation, which must be submitted to the General Assembly pursuant to the Administrative Procedures Act, an initial registration fee or annual fee, or both, on computer or television manufacturers of covered devices, the proceeds of which must be used solely for the purposes of implementing the provisions of this chapter. Any fee proposed by the department must be graduated based on the computer manufacturer's volume of sales in this State. Any registration fee or annual fee for television manufacturers must be based on market share as defined in this chapter. A manufacturer of a covered device that sells one thousand or less per year is exempt from any fee.

**Severability clause**

SECTION 2.

If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, the holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 3.

This act takes effect July 1, 2011; provided, however, a retailer must be allowed an additional period of six months from the effective date to sell any inventory purchased prior to the effective date before having to comply with the applicable provisions of this act.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010.